

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JUAN CABRERA,

Plaintiff,

12 CV 4012 (SJ) (RML)

-against-

**ORDER ADOPTING
REPORT AND
RECOMMENDATION**

UNITED STATES OF AMERICA,

Defendant.
-----X

A P P E A R A N C E S

JUAN CABRERA, PRO SE
1024 Nostrand Avenue
Brooklyn, NY 11225

LORETTA E. LYNCH
271 Cadman Plaza Est
Brooklyn, NY 11201
By: Orelia E. Merchant

JOHNSON, Senior District Judge:

Presently before the Court is a Report and Recommendation (“Report”) prepared by Magistrate Judge Robert M. Levy. Judge Levy issued the Report on December 20, 2013, recommending that the action be dismissed for failure to prosecute. Neither party filed any objections to the Report. For the reasons stated herein, this Court affirms and adopts the Report in its entirety.

A district court judge may designate a magistrate judge to hear and determine certain motions pending before the Court and to submit to the Court proposed findings of fact and a recommendation as to the disposition of the motion.

See 28 U.S.C. § 636(b)(1). Within 10 days of service of the recommendation, any party may file written objections to the magistrate's report. See id. Upon *de novo* review of those portions of the record to which objections were made, the district court judge may affirm or reject the recommendations. See id. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. See Thomas v. Arn, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections may waive the right to appeal this Court's Order. See 28 U.S.C. § 636(b)(1); Small v. Sec'y of Health and Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

In this case, the action was referred to Magistrate Judge Levy for the purpose of discovery. However, there has been no progress in the case since July 29, 2013, when Plaintiff and his counsel reached an impasse. Plaintiff has since failed to attend two status conferences before Judge Levy, despite being warned that such failure could result in dismissal. Judge Levy recommended such a dismissal. Plaintiff has not filed any objections to that recommendation, and the time in which to do so has now expired.

Therefore, this Court adopts and affirms Magistrate Judge Levy's Report in its entirety and the case is dismissed pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of the Court is directed to close the case. **SO ORDERED.**

Dated: January 22, 2014
Brooklyn, NY

_____/s/_____
Sterling Johnson, Jr., U.S.D.J.